

## **2010 General Session -- Revenue and Taxation Enrolled Legislation Highlights**

### **Income Tax**

***H.B. 24      Economic Development Incentives Act Amendments (Rep. C. B. Wallis)***

This bill modifies provisions of the Economic Development Incentives Act related to significant capital investment and requirements for receiving a tax credit under the act. This bill:

- ▶ defines "significant capital investment" for purposes of the Economic Development Incentives Act to be an amount of at least \$10,000,000 to purchase a capital asset or fixed asset; and
- ▶ requires an applicant for a tax credit under the act to provide the Governor's Office of Economic Development with documentation that it has satisfied the performance benchmarks required under the act, including significant capital investment, the creation of high paying jobs, significant purchases from Utah vendors or providers, or any combination of these economic factors.

***S.B. 12      Individual Income Tax Contribution for Methamphetamine Housing Reconstruction and Rehabilitation Fund (Sen. K. Mayne)***

This bill amends the Housing and Community Development part and the Individual Income Tax Contribution Act to enact the Methamphetamine Housing Reconstruction and Rehabilitation Fund Act and to enact an income tax contribution.

This bill:

- ▶ defines terms;
- ▶ enacts the Methamphetamine Housing Reconstruction and Rehabilitation Fund Act;
- ▶ creates a restricted account known as the Methamphetamine Housing Reconstruction and Rehabilitation Fund;
- ▶ enacts an individual income tax contribution for the Methamphetamine Housing Reconstruction and Rehabilitation Fund for a taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2012;
- ▶ provides that monies received from the income tax contribution shall be deposited into the Methamphetamine Housing Reconstruction and Rehabilitation Fund and expended by a qualified housing organization to:
  - reconstruct or rehabilitate residences contaminated by methamphetamine; or
  - purchase property upon which a residence contaminated by methamphetamine is reconstructed or rehabilitated;

- ▶ grants rulemaking authority to the Division of Housing and Community Development; and
- ▶ makes technical changes.

***S.B. 23 Corporate Franchise and Income Tax Amendments (Sen. J. Valentine)***

This bill amends the Corporate Franchise and Income Taxes chapter.

This bill:

- ▶ modifies the definition of "foreign operating company" to provide requirements relating to property and payroll located outside the United States;
- ▶ addresses provisions relating to subtractions from unadjusted income, including a subtraction for a foreign operating company; and
- ▶ makes technical changes.

***S.B. 28 Amendments to Individual Income Tax Return Filing Requirements (Sen. J. S. Adams)***

This bill amends the Individual Income Tax Act to address return filing requirements.

This bill:

- ▶ modifies the definition of electronic;
- ▶ repeals the definition of scan technology;
- ▶ repeals a requirement that under certain circumstances an income tax return preparer file a return by scan technology;
- ▶ repeals related provisions addressing scan technology; and
- ▶ makes technical and conforming changes.

***S.B. 29 Amendments to Individual Income Tax Definition of Resident Individual (Sen. C. Bramble)***

This bill amends the Individual Income Tax Act to modify the definition of resident individual.

This bill:

- ▶ modifies the definition of resident individual to address the circumstances under which an individual who is not domiciled in the state is a resident individual;
- ▶ grants rulemaking authority to the State Tax Commission; and
- ▶ makes technical and conforming changes.

***S.B. 95 Utah Educational Savings Plan Amendments (Sen. W. Niederhauser)***

This bill modifies provisions related to the Utah Educational Savings Plan.

This bill:

- ▶ amends the governance and oversight authority of the State Board of Regents for the Utah Educational Savings Plan;
- ▶ modifies Utah Educational Savings Plan provisions, including:
  - clarifying the plan's name, powers, and duties;
  - beginning with the 2011 taxable year, eliminating a requirement to reduce the value of the Utah Educational Savings Plan tax credit or deduction

- when the Consumer Price Index decreases from one year to the next; and exempting certain withdrawals from the add back provisions of a Utah state income tax credit or deduction previously claimed;
- ▶ defines terms; and
- ▶ makes technical changes.

***S.B. 100 Income Tax Credit or Refund Amendments (Sen. C. Bramble)***

This bill amends the Corporate Franchise and Income Taxes chapter and the Individual Income Tax Act to repeal limits on the amount of an income tax credit or refund.

This bill:

- ▶ repeals limits on the amount of an income tax credit or refund; and
- ▶ makes technical and conforming changes.

***S.B. 134 Partnership Tax Return Filing Deadlines (Sen. J. S. Adams)***

This bill amends the Individual Income Tax Act to address partnership return filing deadlines.

This bill:

- ▶ modifies return filing deadlines for a partnership; and
- ▶ makes technical and conforming changes.

***S.B. 165 Allocation and Apportionment of Income and Deduction of a Net Loss (Sen. W. Niederhauser)***

This bill amends the Revenue and Taxation title to address the allocation and apportionment of income and the deduction of a net loss by an acquired corporation.

This bill:

- ▶ amends provisions in the Multistate Tax Compact governing allocation and apportionment of income;
- ▶ defines terms;
- ▶ addresses the apportionment of business income to the state;
- ▶ addresses the time period during which a taxpayer's determination to use a certain formula to apportion business income to the state is in effect;
- ▶ addresses the amount of net loss a corporation that is acquired by a unitary group may deduct; and
- ▶ makes technical and conforming changes.

***S.B. 198 Economic Development Incentive Amendments (Sen. J. Valentine)***

This bill amends the Corporate Franchise and Income Taxes chapter, the Individual Income Tax Act, and the Economic Development Incentives Act relating to economic development incentives including tax credits.

This bill:

- ▶ enacts and modifies definitions;
- ▶ provides that a local government entity or community development and renewal agency may claim a refundable economic development tax credit under certain

- ◀ circumstances;
- ▶ addresses the procedures, requirements, and administration related to the refundable economic development tax credit and the creation of economic development zones;
- ▶ addresses reporting requirements by the Governor's Office of Economic Development;
- ▶ addresses the expenditure of amounts received as a tax credit by a local government entity or community development and renewal agency;
- ▶ addresses the commingling of tax credit amounts with certain other amounts; and
- ▶ makes technical and conforming changes.

## Property Tax

### ***H.B. 54      Property Tax Exemption for Water Facilities (Rep. P. Painter)***

This bill modifies Revenue and Taxation provisions relating to property tax exemptions. This bill:

- ▶ enacts a property tax exemption for:
  - water rights, reservoirs, pumping plants, ditches, canals, pipes, flumes, and other water infrastructure if owned by a nonprofit entity and used within the state to irrigate land, provide domestic water, or provide water to a public water supplier;
  - land occupied by certain water facilities if the land is owned by the nonprofit entity that owns the facilities; and
  - land adjacent to certain water facilities if the land is owned by the nonprofit entity that owns the facilities and the land is reasonably necessary for the maintenance or for otherwise supporting the operation of the facilities; and
- ▶ enacts definitions for "domestic water" and "other water infrastructure."

### ***H.B. 219      Delinquent Property Tax Amendments (Rep. G. Froerer)***

This bill amends provisions in the Property Tax Act related to the imposition and payment of delinquent taxes.

This bill:

- ▶ increases the penalty imposed on delinquent property taxes from 2% to 2.5%;
- ▶ provides that the penalty is only 1% if the delinquent property taxes and the penalty are paid by a specified date;
- ▶ provides that the interest rate that attaches to delinquent taxes and the penalty be:
  - no less than 7%; and
  - no more than 10%; and
- ▶ makes technical changes.

***H.B. 259      Property Tax Amendments (Rep. W. Harper)***

This bill modifies provisions relating to property tax.

This bill:

- ▶ moves the authority to fill a vacancy in the office of county assessor from the county executive to the county legislative body;
- ▶ modifies the time at which certain qualifications for a county assessor in a county of the first, second, or third class are determined;
- ▶ expands a requirement to conduct an annual update of property values using a mass appraisal system so that the requirement applies to assessors in counties of the third, fourth, fifth, and sixth class in addition to county assessors in first and second class counties;
- ▶ modifies the distribution of certain funds from the multicounty assessing and collecting levy;
- ▶ modifies a provision relating to a property tax notice that the county auditor is required to provide;
- ▶ modifies the time within which a taxpayer may file an appeal relating to the value of personal property;
- ▶ prohibits a person from claiming a homestead exemption for property acquired as a result of criminal activity; and
- ▶ modifies provisions relating to the multicounty assessing and collecting levy.

***H.B. 265      Real Property Amendments (Rep. G. Froerer)***

This bill modifies property tax assessment provisions relating to certain property.

This bill:

- ▶ requires a county assessor to consider certain factors in determining the fair market value of a golf course or hunting club.

***H.B. 316      Disabled Veterans Property Tax Exemption Amendments (Rep. G. Hughes)***

This bill modifies a provision relating to a property tax exemption for disabled veterans and their families.

This bill:

- ▶ modifies a provision relating to a disabled veteran's eligibility for the veteran's property tax exemption;
- ▶ creates a United States citizenship presumption for an honorably discharged veteran; and
- ▶ requires the Department of Veterans' Affairs to resolve a dispute concerning a veteran's status as a disabled veteran.

***H.J.R. 2      Joint Resolution on Property Tax Exemption for Water Facilities (Rep. P. Painter)***

This joint resolution of the Legislature proposes to amend the Utah Constitution to enact a property tax exemption related to certain property associated with water.

This resolution proposes to amend the Utah Constitution to:

- ▶ enact a property tax exemption for:
  - certain property owned by a nonprofit entity and used within the State to irrigate land, provide domestic water, or provide water to a public water supplier;
  - land occupied by certain exempt facilities if the land is owned by the nonprofit entity that owns the facilities; and
  - land adjacent to those facilities if the land is owned by the nonprofit entity that owns the facilities and is reasonably necessary for the maintenance or for otherwise supporting the operation of the facilities.

***S.B. 97      Farmland Assessment Act Amendments (Sen. D. Hinkins)***

This bill modifies a provision of the Farmland Assessment Act.

This bill:

- ▶ allows land subject to a forest stewardship plan to be assessed on the basis of the value that the land has for agricultural use if the land otherwise qualifies to be assessed on that basis.

***S.B. 125      Intangible Property Amendments (Sen. C. Bramble)***

This bill modifies a property tax provision relating to intangible property.

This bill:

- ▶ expands the definition of intangible property for property tax purposes to include renewable energy tax credits and incentives.

***S.B. 175      School District Capital Outlay Equalization Amendments (Sen. B. McAdams)***

This bill amends provisions related to public education financing and certain school property tax provisions.

This bill:

- ▶ allows local school boards to use revenue collected from certain capital property tax levies for certain general fund purposes for fiscal years 2010-11 and 2011-12;
- ▶ requires a local school board to notify taxpayers of certain uses of property tax revenue;
- ▶ requires a school district in a county of the first class that receives property tax revenue from a capital outlay levy equalization program to report to the Education Interim Committee each year;
- ▶ requires the Education Interim Committee to consider reports of receiving school districts when determining whether to reauthorize certain capital outlay levy equalization programs during a sunset review;
- ▶ sunsets certain capital outlay levy equalization programs at the end of 2016; and
- ▶ makes technical changes.

## **Sales and Use Tax**

### ***H.B. 50      Sales and Use Tax Modifications (Rep. W. Harper)***

This bill amends the Sales and Use Tax Act to address definitions, the tax rate at which sales and use taxes are collected, and the location of a transaction involving a prepaid calling service or prepaid wireless calling service.

This bill:

- ▶ modifies the definition of bundled transaction;
- ▶ addresses the collection of a sales and use tax at the lowest agreement combined tax rate;
- ▶ addresses the determination of the location of a transaction involving a prepaid calling service or prepaid wireless calling service; and
- ▶ makes technical and conforming changes.

### ***H.B. 349      Sales and Use Tax Amendments (Rep. W. Harper)***

This bill amends the Municipal Energy Sales and Use Tax Act and the Sales and Use Tax Act to address definitions, the administration of the municipal energy sales and use tax, provisions related to the collection, remittance, and payment of a tax on direct mail and certain sales and use taxes, and determining the location of certain transactions.

This bill:

- ▶ modifies a definition and defines terms;
- ▶ provides that the administrative fee the State Tax Commission charges with respect to the municipal energy sales and use tax shall be expended to administer the municipal energy sales and use tax;
- ▶ addresses the collection, remittance, and payment of a tax on direct mail and certain sales and use taxes;
- ▶ addresses the determination of the location of certain transactions; and
- ▶ makes technical and conforming changes.

### ***S.B. 30      Local Option Sales and Use Taxes for Transportation Act (Sen. W. Niederhauser)***

This bill amends the Sales and Use Tax Act to address local option sales and use taxes for transportation.

This bill:

- ▶ enacts the Local Option Sales and Use Taxes for Transportation Act;
- ▶ defines terms;
- ▶ repeals certain local option sales and use taxes for transportation and enacts certain local option sales and use taxes for transportation;
- ▶ addresses the authority to impose a local option sales and use tax for transportation;
- ▶ addresses the transactions that may be subject to taxation and the tax rates at which those transactions may be subject to taxation;
- ▶ addresses the determination of the location of a transaction for sales and use tax

- purposes;
- ▶ addresses the administration, collection, and enforcement of a local option sales and use tax for transportation;
- ▶ addresses the transfer or transmission of revenues collected from a local option sales and use tax for transportation;
- ▶ addresses the State Tax Commission's authority to retain a percentage of revenues collected from a local option sales and use tax for transportation, the deposit of those revenues into the Sales and Use Tax Administrative Fees Account, and the expenditure of those revenues;
- ▶ addresses legislative body and voter approval requirements for a local option sales and use tax for transportation;
- ▶ addresses the enactment, repeal, or change in the rate of a local option sales and use tax for transportation;
- ▶ addresses a seller's or certified service provider's failure to collect a local option sales and use tax for transportation if the seller or certified service provider relies on certain State Tax Commission information;
- ▶ addresses a seller's or certified service provider's failure to collect a local option sales and use tax for transportation if the seller or certified service provider relies on certain software certified by the State Tax Commission;
- ▶ addresses the circumstances under which a purchaser is relieved from a penalty or is not liable for a tax or interest;
- ▶ provides transition provisions;
- ▶ addresses the imposition of local option sales and use taxes for transportation including the purposes for which revenues collected from the taxes may be expended; and
- ▶ makes technical and conforming changes.

***S.B. 61      Sales and Use Tax Exemption for a Web Search Portal (Sen. H. Stephenson)***

This bill amends the Sales and Use Tax Act to provide a sales and use tax exemption. This bill:

- ▶ provides a sales and use tax exemption for certain purchases or leases for use in the operation of a web search portal; and
- ▶ makes technical and conforming changes.

***S.B. 73      Sales and Use Tax Exemption Relating to Aircraft (Sen. C. Bramble)***

This bill amends the Sales and Use Tax Act to enact a sales and use tax exemption relating to aircraft.

This bill:

- ▶ defines terms;
- ▶ enacts a sales and use tax exemption for certain sales of tangible personal property to or by an aircraft maintenance, repair, and overhaul provider; and
- ▶ makes technical and conforming changes.



## Other

### ***H.B. 26      Brine Shrimp Royalty Act Amendments (Rep. T. Kiser)***

This bill amends the Brine Shrimp Royalty Act.

This bill:

- ▶ repeals obsolete language;
- ▶ addresses definitions;
- ▶ addresses the calculation of the royalty; and
- ▶ makes technical changes.

### ***H.B. 49      Amendments Related to a Tax, Fee, or Charge Administered by the State Tax Commission (Rep. T. Kiser)***

This bill amends the General Taxation Policies chapter to address the taxes, fees, and charges administered by the State Tax Commission and the calculation of interest related to a tax, fee, or charge administered by the State Tax Commission.

This bill:

- ▶ addresses definitions including defining the taxes, fees, and charges administered by the State Tax Commission;
- ▶ addresses the calculation of interest related to a tax, fee, or charge administered by the State Tax Commission, including:
  - providing that under certain circumstances interest is allowed after a 45-day period if a return or amended return is with respect to certain income taxes and is filed electronically; and
  - providing that under certain circumstances interest is allowed after a 90-day period if a return or amended return is with respect to a tax, fee, or charge except for certain income taxes or is not filed electronically; and
- ▶ makes technical and conforming changes.

### ***H.B. 213      Cigarette Tax Exemption Amendments (Rep. E. Vickers)***

This bill amends the Cigarette and Tobacco Tax and Licensing Act relating to exemptions from the state tax on cigarettes.

This bill:

- ▶ amends a citation to the Internal Revenue Code relating to federal law exemptions that also apply to the state tax on cigarettes; and
- ▶ makes technical and conforming changes.

### ***S.B. 96      Uintah Basin Revitalization Fund Amendments (Sen. K. Van Tassell)***

This bill modifies a provision relating to the Uintah Basin Revitalization Fund.

This bill:

- ▶ modifies the calendar year designation in a provision requiring an adjustment in an amount to be deposited into the Uintah Basin Revitalization Fund based on a change in the consumer price index.

***S.B. 111      Repeal of Severance Tax Holding Account (Sen. L. Hillyard)***

This bill amends the Funds and Accounts Act to repeal the Severance Tax Holding Account and related provisions.

This bill:

- ▶ repeals the Severance Tax Holding Account and related provisions;
- ▶ renames the part title to reflect the repeal of the Severance Tax Holding Account; and
- ▶ makes technical and conforming changes.

***S.B. 133      Qualifications of State Tax Commissioners (Sen. J. S. Adams)***

This bill amends the State Tax Commission part to address qualifications of commissioners of the State Tax Commission.

This bill:

- ▶ addresses the tax knowledge and experience required of commissioners of the State Tax Commission;
- ▶ repeals the qualification requirement for a commissioner of the State Tax Commission to give a bond; and
- ▶ makes technical and conforming changes.

***S.B. 259      Amendments to Tobacco Tax (Sen. A. Christensen)***

This bill amends provisions of the Cigarette and Tobacco Tax Act.

This bill:

- ▶ removes a provision relating to the allocation of funds that remain in the Cigarette Tax Restricted Account at the end of the fiscal year; and
- ▶ makes technical changes.